IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3928 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SATISHBHAI @ MIXCHER BABUBHAI VASAVA

Versus

STATE OF GUJARAT

Appearance:

MR SATISH R. PATEL as amicus curie for Petitioner

MR SJ DAVE, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 27/06/2000

ORAL JUDGEMENT

By way of this Special Civil Application, the petitioner has challenged the order of detention dated 12-1-2000 passed by the District Magistrate, Bharuch.

2. The petitioner has been detained under the provisions of of the Gujarat Prevention of Anti-Social Activities Act, 1985 on 13-1-2000 and he is in Bharuch jail.

3. Heard learned advocate, Mr.Satish R. Patel who has been appointed as amicus curie on behalf of the petitioner to defend this petition. According to him, five offences have been registered against the petitioner and last offence registered against the petitioner was dated 3-11-1999. It is further submitted that a representation was submitted by the petitioner through jail, Bharuch on 7-4-2000 and the authority has sent the same along with the covering letter to concerned authority, but the same has not been decided and since there is an unexplained delay, the order of detention is vitiated.

3. I have perused the material on record with the assistance of the learned advocate. It is true that the representation has been sent by the detenu through jail on 7-4-2000 and it seems that same has not been decided which has not been explained satisfactorily. Hence, in view of the judgments reported in AIR 1999 Supreme Court 684 in the case of Rajammal Vs. State of Tamil Nadu and another and also in Ashokbhai Jivraj @ Ashokbhai Jivraj @ Jivabhai Solanki Vs. Police Commissioner, Surat and Ors. 2000(1) G.L.H. 393, the petition succeeds. Since the petition succeeds only on this ground, learned advocate for the petitioner does not press any other grounds.

4. Since no affidavit has been filed either by the detaining authority or the State and also since the delay has not been explained by the State, the order of detention is illegal and the same cannot be sustained.

5. The petition is allowed. The impugned order of detention dated 12-1-2000 passed against the petitioner-detenue is hereby quashed and set aside. The detenu-Satishbhai @ Mixcher Babubhai Vasava is ordered to be set at liberty forthwith, if not required to be detained in any other case. Rule is made absolute accordingly with no order as to costs.

(R.P.DHOLAKIA,J.)

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